

Criminal Record Expungement

Dakota County Law Library

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The Dakota County Law Library is a public law library located in Dakota County Government Center,
1560 Highway 55 West, Hastings, MN 55033. Telephone: (651)438-8080; Fax: (651-438-8098; e-mail:
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PRO SE DISCOVERY SERIES
Pamphlet 2

THIS IS A GUIDE PRODUCED BY THE DAKOTA COUNTY LAW LIBRARY FOR INDIVIDUALS DOING THEIR LEGAL WORK WITHOUT THE ASSISTANCE OF A LAWYER. IN LEGAL TERMINOLOGY, THESE INDIVIDUALS ARE ACTING PRO SE.

DEFINITION:

"PRO SE (PROH SAY OR SEE), ADV. & ADJ. [Latin] For oneself; on one's own behalf; without a lawyer"

from *Black's Law Dictionary*, Seventh Edition (1999)

This is a guide to mediation as an alternative for family legal conflicts.
It is not intended to provide legal advice.

Introduction

In certain cases, individuals may ask the court to seal or expunge their criminal records. Specific Minnesota Statutes authorize expungement. Individuals must follow specific procedures to request the court to grant a criminal expungement. Expungement is considered an extraordinary remedy--individuals may need to contact an attorney to discuss whether or not they might qualify for an expungement. When a person petitions for a criminal expungement, the court will deny the request if "the agency or jurisdiction whose records would be affected establishes by clear and convincing evidence that the interests of the public and public safety outweigh the disadvantages to the petitioner of not sealing the record." (Minnesota Statutes 609A.03, Subd.5(b)).

Individuals should consult Minnesota Statutes for a better understanding of their expungement rights and any limitations that apply. Dakota County residents with criminal files in the county may contact any of the three court locations in Dakota County to begin the expungement process.

EXPUNGEMENT (SEALING) PROCEDURE

(This information is provided as information only and does not represent itself as complete or authoritative. A criminal expungement is a complex legal matter and you are advised to retain the services of an attorney to insure proper handling of your expungement.)

1. You must go to the Court location where your case was heard. In Dakota County, this would be one of three locations:

Dakota County District Court
Judicial Center
1560 Highway 55
Hastings, MN 55033
(651) 438-8141

Western Service Center
14955 Galaxie Ave.
Apple Valley, MN 55124
(952) 891-7239

South St. Paul Courts
1 Mendota Rd. W.
West St. Paul, MN 55118
(651) 564-6200

2. Request the "Petitioner's Affidavit for Expungement" and instructions for expungement. These materials are available from the court locations listed above. You will also need to request a proper order (usually a proposed expungement order). Court staff will determine the proper order for your case. This determination is based upon the sentencing information identified in your file.
3. Serve the proper parties. The petition and proposed order should be served by mail on ALL state and local agencies and their attorney's whose records would be affected

by the proposed order (Minnesota Statutes 609A.03 Subd. 3). The following list includes some of the agencies you would likely need to serve--but there may be others:

- ❖ Dakota County Attorney, Government Center, 1560 Highway 55, Hastings, MN 55033
- ❖ The Bureau of Criminal Apprehension, 1246 University Ave., St. Paul, MN 55104
- ❖ The City Attorney of the city where the crime was committed. (To learn the address of the City Attorney, call the City Hall or the Dakota County Law Library at 651-438-8080.)
- ❖ The Police Department of the city where the crime occurred. (Again, to get this address, call the City Hall or the Dakota County Law Library.)
- ❖ The attorney for the police department where the crime occurred.
- ❖ The Dakota County Sheriff, Law Enforcement Center, 1580 Highway 55, Hastings, MN 55033
- ❖ The attorney for the Dakota County Sheriff, 1580 Highway 55, Hastings, MN 55033 (Ask for the Sheriff's Office.)
- ❖ The Attorney General's Office, Records Division, 525 Park St., Suite 200, St. Paul, MN, 55103
- ❖ Dakota County Community Corrections, 1560 Highway 55, Hastings, MN 55033

4. **NOTE:** A petition is NOT required if the individual has not been convicted of a felony or gross misdemeanor within the ten years immediately preceding the determination of all pending criminal actions in his/her favor, **AND** either of the following occurred:

- (1) All charges were dismissed prior to a determination of probable cause; or
- (2) The prosecuting authority declined to file any charges and a grand jury did not return an indictment.

When these conditions are met, the individual should contact the appropriate arresting agency and follow procedures outlined by Minnesota Statute 299C.11.

5. After the petition and proposed order are served on the necessary party(ies), you may file your case with the court. To complete your filing with the court, you need to provide the proposed order and your petition. After you submit your file, the proposed Order will be completed by the Judge if your expungement is granted.
6. Note that proof of service documents will be required by the court to proceed with the filing. The cost of filing is about \$145.00. If you cannot afford the cost, you may apply for "In Forma Pauperis" status with the court. The "In Forma Pauperis" order must be signed by a Dakota County District Court judge before filing.
7. In Dakota County, no motions are needed since the petition provides the information required by the judge.

8. The Court clerk will set a hearing date for no sooner than 60 days from the date you file the petition.
9. Court staff will notify all parties served of the date and time of the hearing.

Further Reading

1. Minnesota Statutes 299C.11
2. Minnesota Statutes 609A
3. "Expungement of Records." Dunnell Minnesota Digest, V. 40, p. 181-187, 1998.

Minnesota Statutes are available on the Web. Visit:
www.leg.state.mn.us/leg/statutes.htm